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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,851	09/26/2003	Colin Andrew Low	30018433-3	1268

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

HU, KANG

ART UNIT	PAPER NUMBER
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3715

MAIL DATE	DELIVERY MODE
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02/06/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/672,851

Applicant(s)

LOW ET AL.

Examiner

KANG HU

Art Unit

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2008 and 26 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Office action in response to appeal brief filed 10/22/2008, new grounds of rejection is set forth in the current office action. Claims 1-11 are currently pending in the application.

In view of the appeal filed on 10/22/2008, PROSECUTION IS REOPENED. A new ground of rejection is set forth in the current office action.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if the Office action is non-final) or a reply under 37 CFR 1.113 (if the Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/XUAN M. THAI/

Supervisory Patent Examiner, Art Unit 3715

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 and 11 are rejected under USC 101, the claimed invention is directed to non-statutory subject matter. In order for a claimed process to be considered statutory it must be: (1) tied to a particular

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machine or apparatus, or (2) transform a particular article into a different state or thing. The use of a specific machine or transformation of an article must impose meaningful limits on the claim's scope to impart patent-eligibility; the involvement of the machine or transformation in the claimed process must not merely be insignificant extra-solution activity; and the transformation must be central to the purpose of the claimed process. Claim 1 and as recited do not act upon a physical object so as to provide a transformation of that object into a different state or thing. Further the claims do not recite a tie to a particular machine or apparatus. Claim 11 does not have any structure in the claim recitation. Claims 2-9 are rejected for its dependency upon claim 1 for failing to correct these deficiencies. As such, they are rejected for the same reason.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Starcraft (game manual provided with copyright date of 1998).

Re claim 1, Starcraft teaches a method of simulating the activities of a plurality of creatures (page 12, Terran, Zerg or Protoss), the method comprising: simulating activities of the plurality of creatures at a first mode (page 13: mini-map) of simulation observable by a user, wherein the first mode of simulation is less detailed and less computationally intensive than a second mode of simulation (page 13: mini map, this is a bird's eye view of your main screen which allows you to see the entire battlefield at once, compared to the main screen, the mini-map is less detailed and less computational intensive); and simulating an activity of one of the plurality of creatures at the second mode of simulation observable by the user (page 13: main screen), wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation (the mini-map reveals the same view of the main screen in less detailed version, when the unit is created or destroyed in the main screen, subsequent result would also be shown in the mini-map).

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Re claim 2, wherein said second mode of simulation is utilised when one or more of said plurality of creatures simulated by said first mode is undergoing a change in environment (page 17: gathering resources), the second mode being utilised to simulate the activity of said one or more of said plurality of creatures undergoing the change in environment (page 19, move, stop, attack, patrol, hold positions).

Re claim 3, change in environment comprises a creature undergoing at least one of: fighting (page 19, attack); mating; eating; interacting with another creature (units of each of the Terran, Zerg or Protoss interact with each other); reproducing (page 56: Each larva contains within it the genetic makeup of every other Zerg breed. A young hive will only have the genetic code for the most basic Zerg breeds, such as the Drone, but as it grows and develops new structures, the larvae can expand their library of genetic strains); sensing another creature (patrol); encountering another creature; moving to a new terrain type (move); and altering the environment (page 17, gathering resources);.

Re claim 4, the second mode is invoked at the start of the simulation so as to determine starting parameters of each creature (showing of second mode at the start of the game).

Re claim 5, second mode is utilised to determine at least one parameter affecting the activity of the simulated creature, said parameter being subsequently utilised by the first mode of simulation (page 56: Larvae will enter a pupal state and begin the metamorphosis into whichever breed is required by the hive, subsequently showing the activities and parameters on the first mode of simulation).

Re claim 6, when the method changes from utilising the second mode to the first mode, at least one parameter relating to said creature simulated by the second mode is stored for use by a later iteration of the second mode (page 18: viewing of the maps, to move using the mini-map, select the white box and move it around by holding down the left mouse button and dragging it where desired - after the player has chose to build a Refinery as shown in figure on page 18, and using the mini-map to change the location to another, the simulation at the second mode is stored and shown again later).

Re claim 7, wherein said parameter comprises at least one of creature mass; creature energy; creature strength; creature behaviour transition probabilities; creature biochemical levels; creature movement parameters; creature speed; and creature rate of turn (page 19: creature hit points would be analogous with creature mass or creature energy, equipment (armor, weapons (creature energy, strength) or special equipment and their levels of upgrade (creature biochemical levels, terran Stimpack page 36)).

Re claim 8, said parameter comprises at least one of creature mass; creature energy; creature strength; creature behaviour transition probabilities; creature biochemical levels; creature movement parameters; creature speed; and creature rate of turn (page 19: creature hit points, equipment (armor, weapons or special equipment and their levels of upgrade).

Re claim 9, said parameter comprises at least one of creature mass; creature energy; creature strength; creature behaviour transition probabilities; creature biochemical levels; creature movement parameters; creature speed; and creature rate of turn (page 19: creature hit points, equipment (armor, weapons or special equipment and their levels of upgrade).

Re claims 10 and 11, a recordable medium having recorded thereon computer readable code, wherein the computer readable code (page 4, system requirements) is adapted to: simulate activities of a plurality of creatures at a first mode of simulation observable by a user, wherein the first mode of simulation (mini-map) is less detailed and less computationally intensive than a second mode of simulation (main screen); and simulate an activity of one of the plurality of creatures (Terran, Zerg, or Protoss) at the second mode of simulation observable by the user, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment (activities of the main screen translated into the mini-map).

Response to Arguments

3. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KANG HU whose telephone number is (571)270-1344. The examiner can normally be reached on 8-5 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-262-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kathleen Mosser/
Primary Examiner, Art Unit 3715

/K. H./

Examiner, Art Unit 3715